

IN RE: PETITION FOR ZONING VARIANCE
N/S of Hydes Road, 1,230' E
of 1/1 of Manor Road
4524 Hydes Road
11th Election District
6th Councilmanic District
Thomas J. Mewshaw, Jr., et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-265-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A04.3.B.3 to reduce the existing 50' minimum side yard setbacks required, to a proposed 20' side yard setback on both the left and right sides of the proposed house, as more particularly described on Petitioners' Exhibit 1.

The Petitioners appealed and testified. Appearing on behalf of the Petitioners were Norman G. Sacks and Edward and Anna Kirschner. Appearing and testifying on behalf of the Petitioners were Rudolph F. Fischer, Jr., Homebuilder. Amelia K. Haile and Howard Tolle, III appeared and testified as Protestants and were represented by David C. Haile, Esquire.

Testimony indicated that the subject property, known as 4524 Hydes Road, consists of 1.084 acres +/-, zoned R.C.5, and is currently unimproved.

Testimony indicated that the Petitioners are desirous of constructing a single family ranch style home on the subject site.

Mr. Rudolph Fisher testified that this lot is particularly suitable for a ranch style home in view of the sloping topography to the rear of this lot. He testified that requiring the front of the proposed dwelling to face the eastern property line of this lot would require considerable grading and unnecessary disturbance of the open space on the north side of this property.

Mrs. Amelia Haile, an adjoining property owner, testified that her

property is pasture land and is concerned that runoff water from the Petitioners' roof will contain contaminants which will be injurious to the cattle grazing on her property. She is also concerned that the proposed septic system runoff will pollute her pond. Mrs. Haile voiced concern regarding domestic shrubbery that the Mewshaws may plant along the property line bordering her pasture which, if eaten by livestock grazing on her property, could be injurious to their health.

Mr. Howard Tolle, III, the farmer who leases the pasture and from Mrs. Haile for the grazing of his cattle, essentially concurred with Mrs. Haile's concerns.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.2.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of February, 1990 that a variance to reduce the existing 50' minimum side yard setback required, to a proposed 20' side yard setback on both the left and right sides of the proposed house, as more particularly described on Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH/imm
cc: Peoples Counsel
cc: David C. Haile, Esquire

-3-

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A 04.3 B3; To reduce the existing 50'-0" minimum side yard setbacks required, to a proposed 20'-0" side yard setback on both the left & right sides of the proposed house side yards.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)
- 1.) Because Mrs. Mewshaw has the physical problem of a back disability, a Rancher style home must be built having the living space on one floor level.
 - 2.) Because of the topography of our property, to build a ranch style home within the current 50 ft. minimum side yard setback requirements results in a very poor finished look of our proposed home from an esthetic point of view, and would definitely hurt the resale value of our home. The longest length of house would be placed against the existing grade of our hillside lot, & require extreme additional excavation to place the house on the lot. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

Home phone number:

Address

Phone No.

Work phone number:

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDER RECEIVED FOR FILING

Date

By

12/15/89

12/15/89

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Reasons for filing of Variance Petition: (continued)

- Reason 42 (continued)
- If we could build our home as shown on the attached plat, then the finish grading around the house would work out in accord with the existing grade of our lot, and we would avoid having to finish grade by building up excessive steep slopes in the front and rear of our home. If we have to follow the existing 50'-0" minimum building set-back side lines, then in order to build and finish grade our home we would have to work against the existing grade of our lot, and cause deep earth cut and fill areas in the front and rear of our home with excessively steep slopes in those areas.
- 3.) By positioning our home as shown on the attached plat, the house would conform, both in location and architecture, to the existing homes built on the adjoining property to our West, and to the existing homes built along the opposite side of Hydes Road directly across the road from our property. Rancher style homes, that their longest length runs parallel with Hydes Road, are the prevailing style in the area of our lot, with only 1 or 2 exceptions.
- 4.) While the existing homes adjoining our property, and those across Hydes Road directly opposite our property, were built using the previous R-10 criteria, because the lots were part of an approved previous subdivision, most of the homes surrounding our lot would not conform to the current R-C-5 Zoning. The side yard set-backs of most of the existing homes is less than 50'-0" either on one side, or on both sides of the existing homes.
- Again, by allowing us to build our home as shown on the attached plat, we would be conforming to what has been done previously in the surrounding neighborhood.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DEC 12 1989

DATE:

Mr. & Mrs. Thomas J. Newshaw, Jr.
Rt. 1, P. O. Box 372-C
Chesapeake, Maryland 21515

Dennis F. Rasmussen
County Executive

Not
Petition for Zoning Variance
CASE NUMBER: 90-265-A
1/8 of Hydes Road, 1,230' E of c/l of Manor Road
4524 Hydes Road
11th Election District - 6th Councilmatic

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001.6150

Ne 760

70-265-A

PUBLIC HEARING FEES
POSTING SIGNS / ADVERTISING
LAST NAME OF OWNER: NEWSHAU, JR.

Cashier Validation: Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

November 30, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance
CASE NUMBER: 90-265-A
1/8 of Hydes Road, 1,230' E of c/l of Manor Road
4524 Hydes Road
11th Election District - 6th Councilmatic
Petitioner(s): Thomas J. Newshaw, Jr., et ux
HEARING SCHEDULED: TUESDAY, JANUARY 2, 1990 at 2:00 p.m.

Variance to reduce the existing 50 ft., 0 in. minimum side yard setbacks required to a proposed 20 ft., 0 in. side yard setback on both the left and right sides of the proposed house side yards.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

Witness
cc: Mr. & Mrs. Thomas J. Newshaw, Jr.
File

Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning

Date	Receipt	FEE	TYPE	Identification Number	Council District	Election District	Zip Code
11/30/89	077967801	27	131	11	21082		

Petitioner: (Last) NEWSHAU (First) THOMAS (Middle Initial) J.

Property Address: 4524 Hydes Rd. Hydes, Md. 20882.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

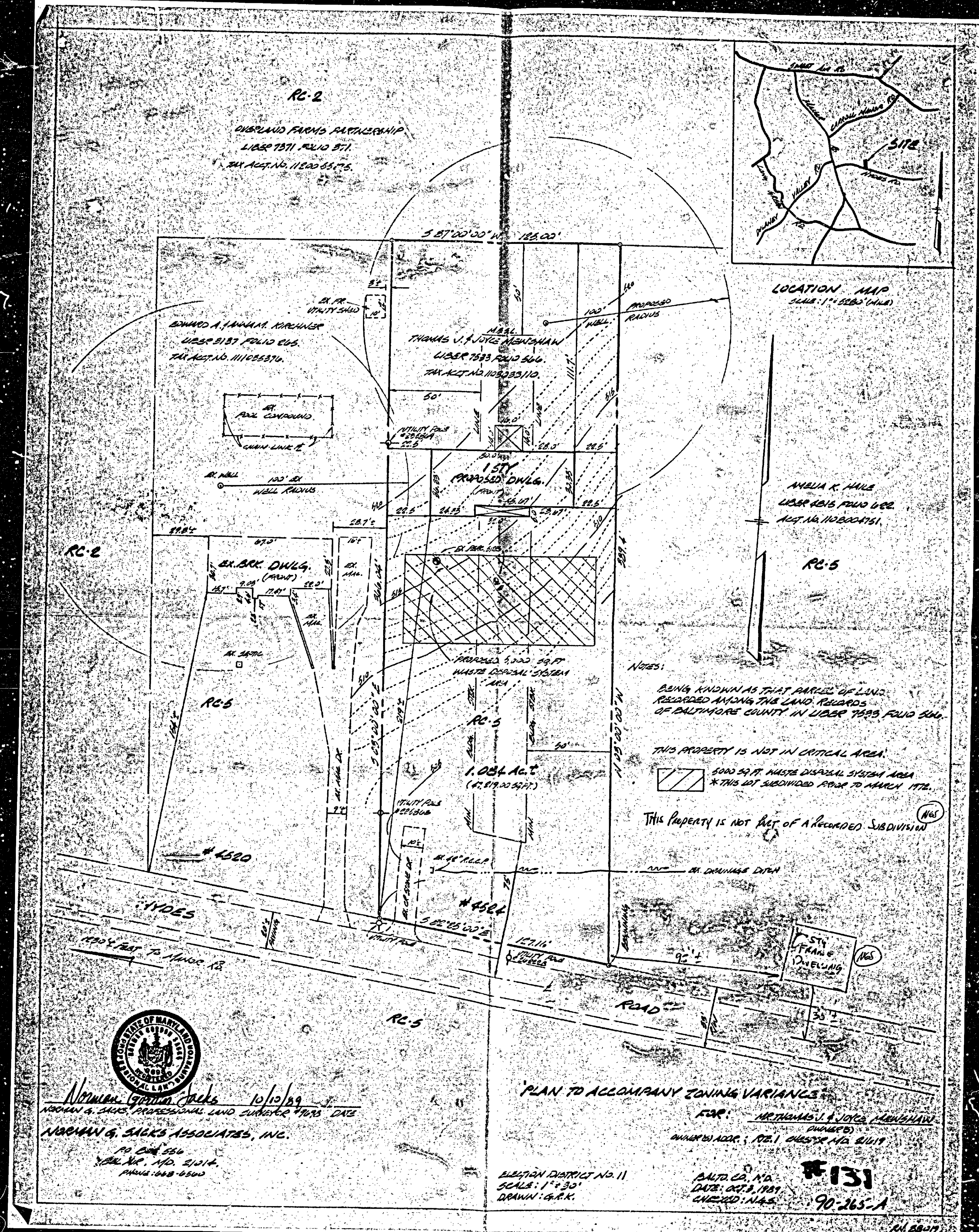
DATE: 10-13-89 ACCOUNT: R-01-615-000

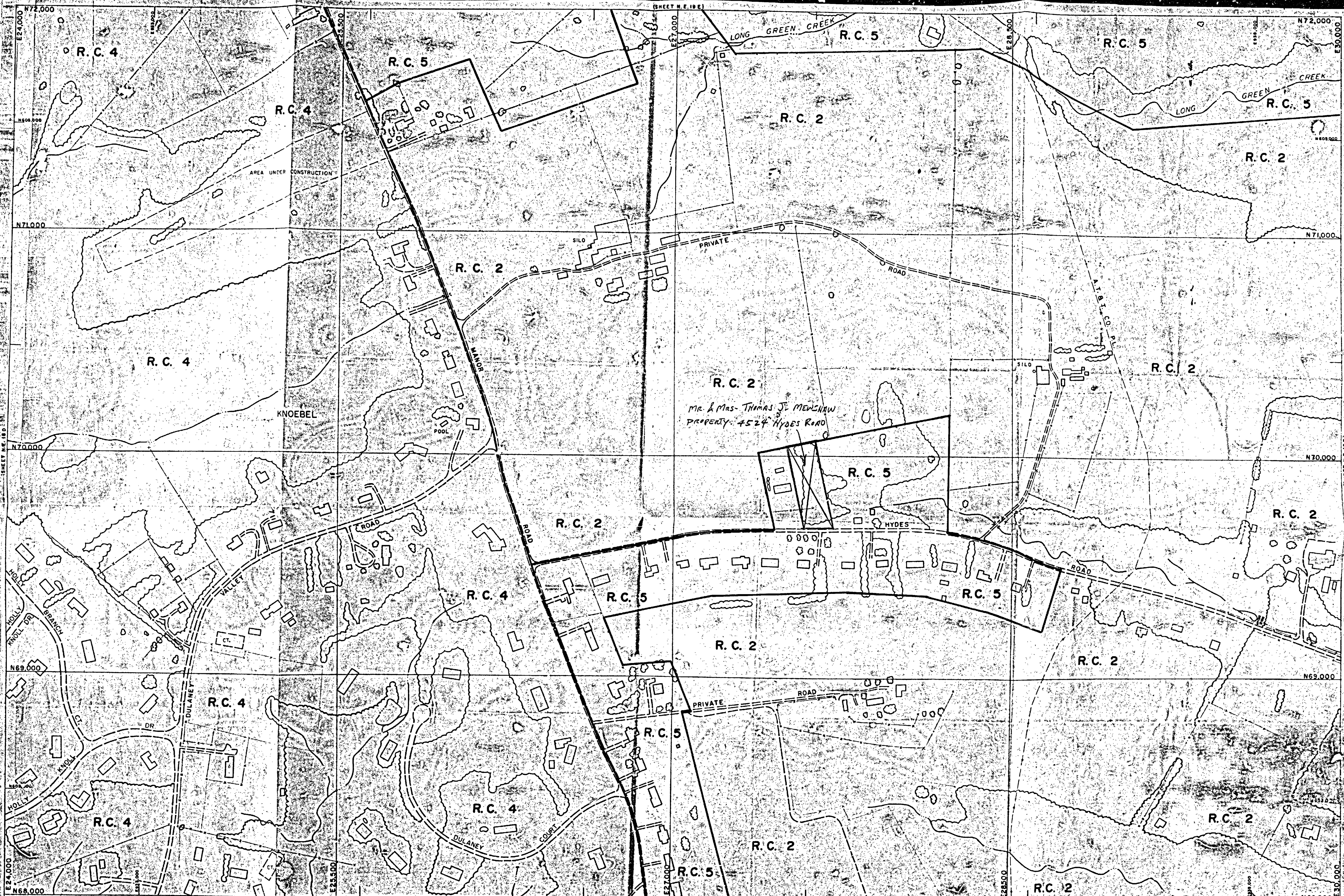
AMOUNT: \$ 35.00

RECEIVED FROM: RES. JAVAGUCC APP.

FOR: B C47*****3502: P135F

VALIDATION OR SIGNATURE OF CARRIER: LTM # 131





U-SE UU-SW
U-NE UU-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21216

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
BIL Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88
Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'	NORTH OF LONG GREEN	N. E. 18-E
DATE OF PHOTOGRAPHY JANUARY 1986	131	

90-265-A

RC-2

OVERLAND FARM PARTNERSHIP

LIBER 1371 FOLIO 571

TAX ACCT. NO. 1120055175

EDWARD A. JANNAL, MICHIGAN

LIBER 3137 FOLIO 265

TAX ACCT. NO. 111035376

THOMAS J. JOYCE MICHIGAN

LIBER 1593 FOLIO 506

TAX ACCT. NO. 1103033110

LOCATION MAP

SCALE: 1" = 500' (H.W.)

AMELIA K. HALE

LIBER 4215 FOLIO 022

ACT. NO. 1103004751

RC-5

NOTES:

BEGING KNOWN AS THAT PARCEL OF LAND
RECORDED AMONG THE LAND RECORDS
OF BALTIMORE COUNTY IN LIBER 1593 FOLIO 506.

THIS PROPERTY IS NOT IN CRITICAL AREA.

5000 SQ. FT. WASTE DISPOSAL SYSTEM AREA
* THIS LOT SUBDIVIDED PRIOR TO MARLYN MTR.

THIS PROPERTY IS NOT PART OF A RECORDED SUBDIVISION

**PETITIONER'S
EXHIBIT 1**



Norman G. Sacks 10/10/89
NORMAN G. SACKS PROFESSIONAL LAND SURVEYOR 17073 DATE
NORMAN G. SACKS ASSOCIATES, INC.

PO BOX 556
BAL. CO., MD. 21014
PHONE: 668-6500

PLAN TO ACCOMPANY ZONING VARIANCE

FOR: MR. THOMAS J. JOYCE MICHIGAN

OWNER(S)

OWNER(S) ADDR: RE-1 CHESTER MD. 21039

ELECTION DISTRICT NO. 11
SCALE: 1" = 50'
DRAWN: G.R.K.

BALTO. CO., MD.
DATE: OCT. 8, 1989
CHECKED: N.A.S.

#131

90-265-A

EN 5007

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 20, 1989

COUNTY OFFICE Bldg.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

COUNTY OFFICE Bldg.
111 W. Chesapeake Ave.
Towson, Maryland 21204
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Pesticide Planning
Licensing Department
Board of Education
Zoning Administration
Industrial DevelopmentMr. & Mrs. Thomas J. Mewshaw, Jr.
Rt. 1, P.O. Box 372-C
Chester MD 21619RE: Item No. 131, Case No. 90-265-A
Petitioners: Thomas J. Mewshaw, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Mewshaw:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commission with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

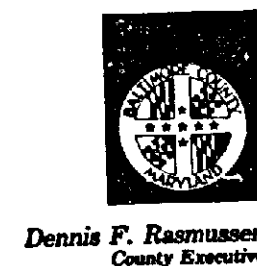
IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning CommissionerDennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
1st day of November, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Thomas J. Mewshaw, Jr., et ux
Petitioner's Attorney: Alan M. Grochal

BALTIMORE COUNTY, MARYLAND

INT'L-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: December 12, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Thomas J. Mewshaw, Jr., et ux, Item 131
Zoning Petition No. 90-265A

The Petitioners request a variance to side yard setback requirements.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Loug in the Office of Planning at 887-3211.

PK/JL/cmm

DEC 12 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21204
(301) 887-3554

November 9, 1989

RECEIVED
NOV 16 1989

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 500, 512, 132, 133, 134, 136, 137, 138, 139, 140, and 141.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan,
Traffic Engineer Associate II

MSF/lab

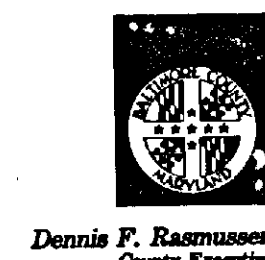
BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT10/31/89
DateZoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 131, Zoning Advisory Committee Meeting of October 31, 1989
Property Owner: Thomas J. Mewshaw, Jr., et ux
Location: N/S of Hydes Rd, 1230' E of centerline of Manor Rd District: 11
Sewage Disposal: private
Water Supply: private

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any chattriller generation process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for construction of new which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 887-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been conducted. Petitioner should contact the Division of Water for more complete information.
- () The results are valid until March 27, 1990.
- () Soil percolation test results have been reviewed.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shall be valid until the results are not acceptable and must be retested. This must be accomplished prior to conveyance of property.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () Prior to occupancy approval, a Hydrogeological Study and an Environmental logical and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- () Others

G.D. Zetser
BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4800
Paul H. Reincke
ChiefDennis F. Rasmussen
County Executive

RE: Property Owner: Thomas J. Mewshaw, Jr., et ux

Location: N/S of Hydes

Item No.: 131 Zoning Agenda: 10/31/89

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Pat Keller* 11-3-89 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
DAVID C. HAILE, ESQ	405-A CENTRAL AVE. Towson 21204
Amelia K. Haile - owner	4610 Hydes Rd. Hydes Md 21082
HAROLD TOLLE III owner	13401 LINDA RD. BALDWIN, MD 21013
OVERLAND FARMS	13401 MANOR RD BALDWIN, MD 21013

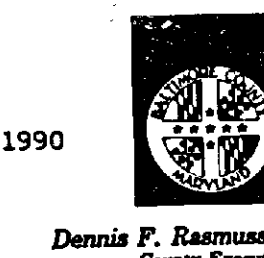
PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Thomas J. Mewshaw	21619
Joyce Mewshaw	21619
ROBERT F. FISCHER, JR.	12137 LANE GREEN PIKE, GLEN ARM, MD 21057
Norman G. Sacks	4530 Hydes Rd. Hydes 21082
	9000 BURN RD Pikesville Md 21113

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
County Office Building
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

February 6, 1990

Dennis F. Rasmussen
County Executive

Mr. and Mrs. Thomas J. Mewshaw, Jr.
Route 1, P.O. Box 372-C
Chester, Maryland 21619

RE: Petition for Zoning Variance
Thomas J. Mewshaw, Jr., et ux
Case No. 90-265-A

Dear Mr. and Mrs. Mewshaw:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm

cc: Peoples Counsel

cc: David C. Haile, Esquire
405-A Central Avenue
Towson, Maryland 21204